

MEMORANDUM TO: All Members of the Metropolitan Council
FROM: Donald W. Jones, Director
DATE: June 27, 2006
RE: **Analysis for Adjourned Council Meeting
of June 27, 2006 - 7:00 p.m.**

- RESOLUTIONS -

RESOLUTION NO. RS2006-1328 (MCCLENDON & WALLS) – This resolution appropriates \$2,194,500 from the unappropriated fund balance of the general fund of the general services district to various departments to balance their budgets for the current fiscal year. The appropriations are as follows:

- Health department: \$1,651,200 for medical services
- Health department: \$460,300 to compensate for deficiencies in the grant fund
- Transportation licensing commission: \$3,000 for fingerprinting and background checks on taxicab drivers
- District attorney: \$80,000 for mediation services

The council office recommends that this resolution be deferred to track with the operating budget ordinance.

RESOLUTION NO. RS2006-1331 (MCCLENDON) – This resolution provides that the Metropolitan Government will sell its tax receivables to public or private parties. The state senate and house passed legislation on May 23rd and 25th, respectively, that allows Davidson County and Knox County to elect to sell their tax receivables to public or private parties. Tax receivables are defined under the new state law as the right to receive revenue from a tax secured by a lien on real property that remains unpaid after its due date (delinquent tax bills). The sale of a tax receivable is essentially the sale of the right to the cash flow at a later date. The sale of tax receivables has become very popular with municipalities, especially those in urban areas, since local governments are often very limited in their ability to generate additional revenue. This practice allows municipalities to receive cash upfront for what has been a nonperforming asset.

Pursuant to the new state law, the purchasers of the tax receivables would be entitled to payment once the taxes are collected. However, unlike many other tax receivable sale programs, Metro will still collect the taxes rather than transferring the responsibility for collecting the taxes to the buyer of the receivables. Interest and penalties would continue to accrue on the unpaid taxes after the receivables are sold. Metro currently collects approximately 94-95% of property taxes each year, leaving 5-6% in uncollected taxes that would be sold.

Although this practice provides an influx of cash into the operating budget, there are some potential downsides. Since the receivables are sold at a discount, Metro would get the benefit of having the money now, but would ultimately not realize the full benefit of the collection on the receivables at a (continued on next page)

RESOLUTION NO. RS2006-1331 (continued)

later date. Thus, once this practice is started, it must be continued in future fiscal years to avoid having a substantial hole in the budget. Further, there is some concern regarding the reliance upon the proceeds from the sale of tax receivables in funding recurring budget items, as opposed to using the proceeds solely for capital projects. Finally, there have been some questions among government accounting professionals as to whether the sale of tax receivables should be defined as a sale, which is reported as revenue, or as collateral against the repayment of funds borrowed by the government, which would be reported as a liability. The Governmental Accounting Standards Board (GASB) is in the process of promulgating criteria for determining whether an actual sale has occurred.

According to the mayor's proposed budget, Metro is expected to realize approximately \$19.8 million in revenue from the delinquent property taxes sold during the next fiscal year. This \$19.8 million is realized as revenue to balance the mayor's proposed budget. If this revenue is not included in the budget, the council would have to either cut \$19.8 million from the operating budget or increase the tax levy by approximately 13 cents.

RESOLUTION NO. RS2006-1332 (MCLENDON) – This resolution, as amended, approves a new fee schedule associated with the review and processing of certain zoning applications by the planning department. The Metropolitan zoning code provides that standardized fee schedules may be established to partially defray the processing and administration costs for zoning applications. Such a fee schedule must be approved by resolution of the council in order to be effective. An independent consultant hired by Metro has previously recommended fee increases for various Metro departments to help defray the full cost of services provided. The new fee schedules proposed by the planning department are based upon the full cost fee recommendation. Some of the notable fee increases are as follows:

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| 1. Base zone change | Increase from \$800 to \$1,200 |
| 2. Specific Plan zone change | Increase from \$800 to \$1,600 for up to 5 acres
5-100 acres: Increase from \$10 to \$100 per acre
100+ acres: Increase from \$5 to \$45 per acre |
| 3. Overlay preliminary revisions
(includes PUDs and historic overlays) | Increase from \$600 to \$1,600 for up to 5 acres
5-100 acres: Increase from \$30 to \$100 per acre
100-500 acres: Increase from \$15 to \$45 an acre
500+ acres: Increase from \$7.50 to \$25 per acre |

Planning commission fees were last increased in 2004. This increase would bring the fees up to a level that would allow for full-cost recovery. Attached to this analysis is a list of zone change application fees for comparable and surrounding cities that was included in the consultant's report.

Since this fee increase is necessary to balance the mayor's proposed budget, failure to approve the fee increase, as amended, will necessitate a reduction in the planning department's operating budget (or some other general fund department's budget), or an increase in the tax levy, to offset the lower revenues.

RESOLUTION NO. RS2006-1333 (MCCLENDON) – This resolution provides additional compensation to the Davidson county circuit court clerk and criminal court clerk in an amount equal to ten percent of their base salary. State law sets the minimum salaries for county officials based upon the population of the county and a complicated escalator formula tied to the general increases in state employees' compensation. The county officials include the sheriff, the property assessor, the county clerk, the court clerks, the trustee and the register of deeds. State law provides that county officials must all receive the same salary, with two important exceptions for the sheriff and certain court clerks.

One of these exceptions is for court clerks that serve more than one court. Such court clerks may receive additional compensation in the amount of ten percent of their base salary to compensate them for "the additional duties and time required to serve multiple courts." The Davidson County circuit court clerk serves the eight circuit courts, the civil division of the general sessions court, and the traffic court. The criminal court clerk serves the criminal division of both the general sessions court and the state trial court. This resolution increases the salaries for these two positions by ten percent, as allowed by state law. The current salary for the court clerks is approximately \$103,000.

The council office is of the opinion that adoption of this resolution will automatically result in a salary increase for the sheriff, since state law provides that the salary for the sheriff must be at least ten percent higher than the other general officers of the county. In fact, this law was just amended effective May 4, 2006 to clarify that any additional compensation provided to the court clerks is used in calculating the sheriff's salary.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2006-1090 (MCCLENDON) – This ordinance is the operating budget of the Metropolitan Government for the Fiscal Year 2006-2007. The proposed budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 678,370,200
• Schools Fund of the General Services District	563,230,100
• Schools Debt Service Fund	59,330,200
• Debt Service – General Services District	<u>82,846,700</u>
TOTAL GENERAL SERVICES DISTRICT BUDGET	\$1,383,777,200
• General Fund of the Urban Services District	\$ 103,554,300
• Debt Service – Urban Services District	<u>18,723,000</u>
TOTAL URBAN SERVICES DISTRICT BUDGET	\$ 122,277,300
TOTAL OPERATING BUDGET	\$1,506,054,500

The substitute budget adopted by the council for the current fiscal year is \$1,440,369,800. The mayor's proposed budget is an increase of \$65,684,700 or 4.6%.

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ORDINANCE NO. BL2006-1090 (continued)

No property tax increase is included in order to fund this budget. There is a proposed shift of \$0.07 in the existing property tax rate from the General Services District Debt Fund to the General Fund of the General Services District. This shift will have no impact on the total property tax rate of the GSD or USD.

\$10,035,900 is appropriated from the total GSD unappropriated fund balance, compared to a total of \$10,883,900 in the current year's budget. For the total USD unappropriated fund balance, \$8,547,900 is appropriated for use, compared to \$3,951,300 in the current year's budget.

The proposed budget funds the second year of a new pay plan that provides a 2% across the board pay raise for Metro employees, with an additional 2% planned for next fiscal year. \$15,599,100 is included in the GSD General Fund and \$2,388,900 in the USD General Fund for these pay plan improvements. Revenue growth is currently expected to be sufficient to fund the 2% increases in these two years.

The proposed budget also includes negative expenses in order to balance the total budget requirements. In addition to a negative expenditure of \$14,651,000 in the GSD for budget adjustment savings, which is the same as the current fiscal year, the proposed budget includes negative expenditures of \$6,000,000 for E-procurement savings and \$1,000,000 for maintenance audit savings. The USD includes a negative expense of \$2,264,700 for budget adjustment savings, compared to \$2,650,000 in the current fiscal year.

Internal service fees for the departments of finance, human resources, general services, and information technologies are included in this budget as part of the ongoing effort to implement full cost recovery within Metro government. These fees appear as increased expenditures in the operational budgets of various departments, paid to these four departments in their various internal service funds.

This internal service fee structure is consistent with the requirements of Federal OMB Circular A-87. This establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments. The purpose is to establish a process whereby central service costs can be identified and assigned on a reasonable and consistent basis.

There is a new line item named "Insurance Premiums" in most departmental budgets in order to fund a centralized "Safety and Risk Management Fund". Proceeds from these premiums would be used to establish a new central organization for safety coordination, risk management, and claims. Transfers from this fund would also be used for other funds such as Self-Insured Liability, Property Insurance, Commercial Liability Insurance, etc. These transfers would replace the direct appropriations received by these funds in previous years. The council office would point out that the actual "Safety and Risk Management Fund" was apparently omitted by error from this ordinance.

\$21,819,700 of the fiscal year 2006-2007 general fund appropriations are contingent on a combination of fee increases and a new line item for the sale of \$18,500,900 in delinquent property tax receivables. Although there will be interest expense associated with this sale, Metro will receive the benefit of the revenue from these receivables in the current year rather than Fiscal Year 2007-2008. The council office would point out that the governor has not yet signed the legislation that would authorize this sale. If the sale cannot be carried out, this will create a deficit of the full \$18,500,900 in the appropriation that would need to be addressed.

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ORDINANCE NO. BL2006-1090 (continued)

A contingency of \$1,301,800 is included for EMS collection costs. This amount can be transferred to the fire department during the year if needed for ongoing funding of these collections. This is an increase of \$149,500 from the \$1,152,300 included in the budget for fiscal year 2005-2006 for this purpose. It was necessary to use this contingency during the current year, transferring the full amount to the fire department's budget in the last quarter of the year.

Other contingencies include \$5,294,000 for new facility costs for the A. A. Birch Building, Historic Courthouse, and the Richard Fulton Complex. Also included is a contingency of \$1,268,100 for anticipated increases in utility costs during the fiscal year.

This budget includes a subsidy of \$49,797,100 for the hospital authority. This is an increase of \$5,474,500 over the subsidy from fiscal year 2005-2006. This will allow general hospital to operate for the entire year and continue the repayment of their debt to the Metropolitan Government. However, this assumes that the state government will provide an additional \$7,495,884 in additional funding over the \$4,042,816 of Essential Access Payments. This state supplement has been requested, but not yet approved.

The operating subsidy for schools is increased by \$20,979,600 to \$563,230,100 for the Schools General Purpose Fund, including \$4,285,000 for funding the actuarial contribution to the Metro Teachers Pension Plan. In addition to this subsidy, there is a separate line in the ordinance to give \$7,985,900 to schools for two purposes. The first is to provide compensation for property at 601 Second Avenue South that will be used to build a new fire hall. It also provides administrative support for Metro schools by paying for general fund administrative activities. The council office would caution that any direct reimbursement for internal service costs might be considered a violation of at least the intent of A-87 to assign these costs on a consistent basis.

No money is appropriated from the fund balance of the Schools General Purpose Fund for operational increases in FY07, leaving this fund with a projected balance of \$17,800,000 or 3.2% of the operational budget. According to state law, this balance cannot go below 3%.

\$10,035,900 will be appropriated from the Schools Debt Service, resulting in an unappropriated fund balance of \$56,764,100 by the end of the year.

The budget ordinance is amendable on third reading.

Proposed Substitute Budget

The Chair of the Budget and Finance Committee will propose a substitute budget that provides for some changes in appropriations, but no change is being made in the GSD or USD property tax rates. The substitute budget provides for \$1,278,000 in GSD General Fund reductions, \$2,607,300 in GSD General Fund additions, and a \$1,329,300 increase in GSD General Fund revenue. No change is being made to the USD General Fund.

The paragraph in the Mayor's proposed operating budget that would have defined post-employment benefits covered by State No. 45 of the Government Accounting Standards Board as "defined contribution plans" has been removed. In addition, several paragraphs pertaining to various authorities granted by the ordinance have been modified to require approval of the council by resolution.

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The substitute budget provides for the following reductions to three contingency accounts and an administrative account for a total of \$492,700:

- \$50,500 – Contingency Account
- \$138,400 – Contingency EMS Collection
- \$150,000 – Contingency New Facilities Cost
- \$153,800 – Unemployment Compensation

The substitute budget also makes reductions from some departmental budgets as follows:

- \$100,300 – Planning Commission
- \$315,000 – Nashville Career Advancement Center (NCAC) local match
- \$200,000 – Metro Action Commission

There is also a \$70,000 reduction to the contribution for the Interdenominational Ministers' Fellowship.

The department of finance has revised the revenue estimate concerning the sale of delinquent property taxes. Since the time the initial estimate was made, the department of finance has determined that the Metropolitan Government will receive an additional \$1,379,300 for the sale of these receivables. Thus, the revenue estimates in the budget have been adjusted accordingly.

There are three additional appropriations that are increases in operational funding totaling \$607,300. These are made to the following departments:

- \$308,700 – Trustee: increase for additional property tax relief for seniors
- \$198,600 – General Sessions Court for judges' cost of living increases as required by the Charter
- \$100,000 – State Trial Courts for juror parking at the new courthouse garage

An additional non-recurring expenditure is provided in the amount of \$1,950,000 for a Reserve for Council Infrastructure Program, Nonprofit Grants, and Council Initiatives.

The budget ordinance is amendable on third reading. Pursuant to Council Rules, no amendment to the budget may be offered unless it has been submitted to the Budget & Finance Committee for a recommendation. The Budget & Finance Committee will meet at 5:30 p.m. this evening, prior to the 7:00 p.m. Council meeting to consider the budget on third and final reading.

ORDINANCE NO. BL2006-1091 (MCCLENDON) – This ordinance adopts the property tax levy for the fiscal year 2006-2007. The Metropolitan Charter requires that the council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax proposed by the mayor is in assessed value, which represents \$4.04 per \$100 assessed value in the general services district (GSD) and an additional \$0.65 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.69 in the USD.

This proposed property tax levy shifts seven cents from the debt service fund of the GSD to the general fund of the GSD to provide additional funding for the general government operations. This shift is estimated to be the equivalent of \$10.5 million.

ORDINANCE NOS. BL2006-1092 through BL2006-1094 (MCLENDON) – These three ordinances approve increases in various fees charged by the Metropolitan Government to generate additional revenue needed to balance the mayor's proposed operating budget. The mayor's proposed budget relies on approximately \$23.8 in "revenue enhancements" in order to balance the budget. The majority of these revenue enhancements consist of \$18.5 million in property tax receivables to be sold, which is the subject matter of Resolution No. RS2006-1331 currently pending with the council. These three ordinances involve increases in traffic school fees and police tow-in lot storage fees, as well as an ordinance to charge fees for processing payments made to the Metropolitan Government by credit card. If these fees are not increased, the council will have to either make reductions in the budget to offset the lost revenues or increase the tax levy.

Ordinance No. BL2006-1092 approves an increase in the traffic school fees and probation supervision fees. The fee for attending traffic school will increase from \$55 to \$65. The fee was originally set at \$50 in 1999 and increased to \$55 in 2004. The fee for probation supervision will increase from \$20 to \$25 per month. The purpose of this fee is to partially defray the cost of operating the division of probation. This fee has not been increased since it was established in 1991. This ordinance is expected to result in \$516,000 in increased revenue.

Ordinance No. BL2006-1093 authorizes the Metropolitan Government to charge a 2.5% processing fee for payments made by credit or debit card for taxes, licenses, fines and fees payable to Metro. State law mandates that local governments collect a credit or debit card processing fee not to exceed 5% when collecting funds on behalf of the government. However, this state law allows local governments to waive this processing fee, which the Metropolitan Government elected to do by ordinance in 2001. This ordinance amends the 2001 ordinance to partially repeal the fee waiver for processing the credit and debit card payments.

This ordinance stems from an abuse by mortgage companies that pay a large amount of property taxes by credit card. The credit card companies charge a fee for certain payments made by credit card, which Metro is currently having to absorb. This ordinance repeals the credit and debit card processing fee waiver except for point of sale transactions. A point of sale transaction is where the goods or services are purchased directly from Metro face-to-face or "over the counter", such as payment for greens fees at Metro golf courses. For all other non-face-to-face transactions, such as payments made by phone or Internet, there will be a 2.5% processing fee added when paying by credit or debit card. This is expected to result in \$1 million in increased revenue for fiscal year 2007.

Ordinance No. BL2006-1094 increases the police department impound lot (tow-in lot) storage fees. The Code currently provides a daily charge for motor vehicles stored at the tow-in lot. The daily storage fee is \$10 for motorcycles and \$15 for automobiles. There are also daily storage fees for boats, tractors and motor homes. There is no storage fee for the first two hours and there is no storage fee for recovered stolen vehicles, provided the owner claims the vehicle within twenty-four hours after being notified by the police department. The daily storage fees were last increased in 2005.

In addition to the daily storage fee, this ordinance would establish a flat fee of \$200 per item stored in the tow-in lot. The \$200 fee would not be charged for items left two hours or less, nor would it apply to stolen vehicles that are recovered within 24 hours. Thus, if this ordinance is enacted, the owner of a vehicle left at the tow-in lot for three hours would pay \$215, as opposed to the \$15 the owner would currently have to pay.

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ORDINANCE NOS. BL2006-1092 through BL2006-1094 (continued)

This ordinance amends the wrecker licensing code provisions to enable this flat fee to be charged at the tow-in lot. The council office would point out that by amending this section of the Code, private wrecker companies would also be allowed to charge this \$200 flat fee, in addition to the daily storage rate, for storing vehicles at their private lots. In order to pass constitutional muster, wrecker licensing ordinances and associated fees must be applied uniformly. An ordinance that allows the government to charge a flat storage fee at the tow-in lot, but does not allow private wrecker firms to do the same would likely be subject to a legal challenge. Further, the Metropolitan Government legally cannot impose fees that exceed the cost for providing the government service. There is no documentation attached to this ordinance that gives a cost basis to justify this substantial fee increase. The council office would advise the council not to enact this ordinance until such documentation is provided.

ORDINANCE NO. BL2006-1095 (MCCLENDON) – This ordinance, as amended, amends the Metropolitan Code of Laws regarding water and sewer department charges and fees. According to the administration, the purpose of this ordinance is to avoid an approximate 22% general water rate increase. The “revenue enhancements” to be realized by this ordinance are expected to total \$12.25 million in fiscal year 2007.

This ordinance, as amended, provides the following fee modifications:

1. The ordinance repeals the existing provision in the Code that charges businesses served by more than one water meter as though the water was received through one meter. This change is estimated to generate \$2.19 million in annual revenue for the water department.
2. The ordinance adds a new “capacity charge” of \$500 on all new single-family equivalent connections to the public water supply system. This fee is expected to generate \$1.28 million in new revenue.
3. The ordinance increases the capacity charge on all new single-family equivalent connections to the public sewer system from \$500 to \$1,000 per connection. This change is estimated to generate \$3.75 million in annual revenue for the water department.

This ordinance would also allow the water department to read meters on a quarterly basis, rather than monthly. Customers would still be billed monthly based upon their estimated usage. This change in procedure is expected to save \$450,000 annually.

ORDINANCE NO. BL2006-1099 (MCCLENDON & JAMESON) – This ordinance approves a contract between the state of Tennessee and the Metropolitan Government regarding the installation of safety communication equipment for the district energy system (DES). The DES is used to heat and cool various downtown buildings, including several buildings owned and operated by the state. The DES was commissioned in 2001 to replace the thermal transfer facility. The state is one of the largest customers of the DES. This ordinance approves a contract for the installation of a mine radio communications system in the state steam tunnel. The project is estimated to take six weeks to complete at a total cost of \$40,509. Pursuant to this contract, the state will pay \$20,000 toward the cost of installing the equipment. Future amendments to this agreement may be approved by resolution of the council.

ORDINANCE NOS. BL2006-1100, BL2006 1101 & BL2006-1102 – These three ordinances authorize the Metropolitan Government to enter into participation agreements with private developers to provide public sewer service to new subdivisions in Davidson and Williamson Counties. The developers will be required to contribute \$2,000 per single-family home connection toward the projects in aid of construction. These funds are to be deposited into the water and sewer extension and replacement fund. These are typical participation agreements entered into by the Metropolitan Government, acting through the department of water and sewerage services, whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

The council office would point out that if Ordinance No. BL2006-1095 is adopted, which is also on second reading, all developers would be required to pay a \$2,000 capacity charge per single-family connection to the sewer system.

Ordinance No. BL2006-1100 (Toler) approves a participation agreement with The Jones Company to provide public sewer service to the Nolen Park subdivision in Williamson County. The developer has agreed to contribute \$148,000 toward the cost of the project in aid of construction for a total of 74 single-family home connections.

Ordinance No. BL2006-1101 (Toler & McClendon) approves a participation agreement with Burkitt Place Development, LLC to provide public sewer service to the Burkitt Place subdivision in Davidson and Williamson Counties. Burkitt Place Development, LLC has agreed to contribute \$100,000 toward the cost of the project in aid of construction for a total of 50 single-family home connections.

Ordinance No. BL2006-1102 (Toler & McClendon) approves a participation agreement with Centex Homes to provide public sewer service to the Villas of Concord Place subdivision in Davidson County. Centex Homes has agreed to contribute \$138,000 toward the cost of the project in aid of construction for a total of 69 single-family home connections.

ORDINANCE NO. BL2006-1103 (WHITMORE & WALLACE) – This ordinance renames a portion of 20th Avenue North between Charlotte Avenue and a dead end north of Warner Street as “Spruce Street”. This name change has been requested by Spruce Street Baptist Church, which was originally located on Spruce Street in the downtown area but was forced to move to its present location on 20th Avenue North due to urban revitalization projects in 1955. This ordinance would allow the street on which the church is located to correspond to its name. Signatures of the affected property owners are on file with the department of public works.

This ordinance has been approved by the planning commission.